

REMARKS

Claims 5-7, 9, 11, 16-18 and 20-28 are pending. No new matter has been added by way of the present amendment. For instance, claims 1-4, 8, 10, 12-14 and 19 have been cancelled. Further, claims 5, 21 and 27 have been amended to define the L-theanine being a powder coated with gum arabic and administered in capsule form. These amendments are based upon discussions held with the Examiner in October of 2006. During these discussions, the Examiner indicated that such subject matter would be allowable, if adopted by Applicants. Applicants thank the Examiner for this indication of allowable subject matter, which is now adopted herein.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Issues under 35 U.S.C. §103(a)

The Examiner has rejected claims 4-9, 11, 16-18 and 20-28 under 35 U.S.C. § 103(a) as being obvious over Ueda et al., USP 6,831,103 B1 (hereinafter referred to as Ueda '103). Applicants respectfully traverse this rejection.

The pending claims are 5-7, 9, 11, 16-18 and 20-28.

Independent claim 5 relates to a method of promoting sleep comprising administering to a patient suffering from a sleep disorder a capsule comprising a composition comprising sugar, L-theanine powder coated with gum arabic, flavor and tartaric acid. Claims 6, 7, 9, 11, 16-18 and 20 depend, either directly or indirectly upon claim 5.

Independent claim 21 relates to a method for promoting sleep in a human having a sleep disorder, comprising: administering to a human a capsule comprising an effective amount of theanine powder coated with gum arabic to moderate or ameliorate a sleep disorder selected from the

group consisting of insomnia, vigilance in middle of sleep, vigilance in early morning and disturbance of restful sleep. Claims 22-28 depend, either directly or indirectly upon claim 21.

The prior art of Ueda '103 fails to suggest or disclose the subject matter currently claimed in claims 5 and 21. Since the disclosure of Ueda '103 is deficient, there exists no *prima facie* case of obviousness with respect to these claims and the claims dependent thereon. Therefore, this rejection is moot and should be withdrawn.

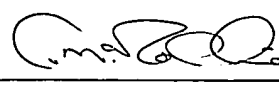
With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicants' representative, Craig A. McRobbie (Reg. No. 42,874), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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